

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE 10-001**

**IN RE: KENNETH POLOSKI
ALLEGED VIOLATION OF KRS CHAPTER 11A**

**INITIATING ORDER
Initiation of Administrative Proceeding
And Formal Complaint**

The Executive Branch Ethics Commission (the "Commission"), upon its own motion, initiated a preliminary investigation of Kenneth Poloski (the "Respondent"), pursuant to KRS 11A.080(1), on May 21, 2009 and expanded the investigation on November 13, 2009.

At all relevant times the Respondent was a "public servant" as defined in KRS 11A.010(9), and thus subject to the jurisdiction of the Commission.

The Commission initiated the preliminary investigation to determine whether there was probable cause to believe the Respondent violated provisions of KRS Chapter 11A (also referred to herein as the "Ethics Code").

The Commission focused its investigation upon the Respondent's possible violation of the Ethics Code by enjoying part of a contract with his own agency, and by regulating his own business as part of his official position.

The Commission notified the Respondent of the preliminary investigation by letters dated May 22, 2009 and November 13, 2009. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on January 29, 2010 to initiate an administrative proceeding, pursuant to KRS 11A.080(4)(b) and KRS Chapter 13B, to determine whether the Respondent violated the Ethics Code as set forth in the Allegations of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

IT IS THEREFORE ORDERED that:

1. The Respondent shall file his answer to this Initiating Order within twenty (20) days from the date of service, verifying the truth and accuracy of any answer submitted.
2. The Respondent shall appear at a hearing to be scheduled by subsequent order and be prepared to defend against the Commission's allegations that he committed the Ethics Code violations set forth in the Allegation of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.
3. All material submitted to the Commission shall be addressed to the Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601. The Commission is represented by John R. Steffen and Dana Cox Nickles, who may be contacted through the Commission's office at (502) 564-7954.
4. The Respondent has the right to legal counsel during this proceeding. If the Respondent retains legal counsel, that person shall file an appearance with the Commission, and thereafter all correspondence from the Commission to the Respondent shall be mailed or delivered to the Respondent's attorney.
5. The Respondent has the right to examine upon request, at least five (5) days prior to the hearing, a list of witnesses the Commission expects to call at the hearing, any evidence which will be used at the hearing and any exculpatory information in the Commission's possession.
6. The Respondent has the right to subpoena witnesses on his own behalf. If the Respondent subpoenas witnesses, he shall pay for all costs associated with the subpoenas' issuance, including any applicable witness fees.
7. If the Respondent fails to attend or participate as required at any stage of the

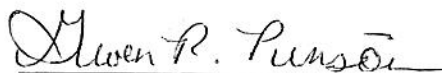
administrative hearing process without good cause shown, he may be held in default pursuant to KRS 13B.050(3)(h).

8. The Respondent has a right to appeal any final Commission order to the Franklin Circuit Court within thirty (30) days of service.

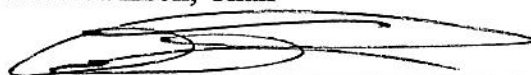
9. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

So ordered this 29th day of January, 2010.

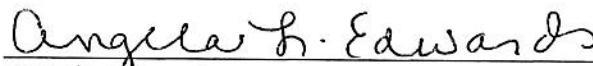
EXECUTIVE BRANCH ETHICS COMMISSION:



Gwen R. Pinson, Chair



Ronald Green, Vice-Chair



Angela Edwards



W. David Denton

Vacant

**APPENDIX A
CASE NO. 10-001
INITIATING ORDER
ALLEGATION OF VIOLATIONS**

The Respondent, Kenneth Poloski, was at all times relevant an employee of the Commonwealth of Kentucky, serving in the Transportation Cabinet, Department of Highways, District 1. The Respondent was subject to the jurisdiction of the Commission at all relevant times. See KRS 11A.010(9)(h).

During the course of its preliminary investigation, the Commission found probable cause to believe that Kenneth Poloski committed the following violations:

COUNT I

Kenneth Poloski, during his course of employment with the Kentucky Transportation Cabinet, Department of Highways, District 1, enjoyed part of a contract granted by his agency to Bergeron Emergency Services for debris removal in Ballard County, Kentucky by entering into a sub-contract to fulfill a portion of the contract between Bergeron Emergency Services and the Kentucky Transportation Cabinet. Bergeron Emergency Services entered into a sub-contract with Blackwater Creek, and Blackwater Creek hired Kenneth Poloski, d/b/a McKenney Tree Service, to perform a portion of the contract.

These facts constitute violations of KRS 11A.040(4).

KRS 11A.040(4) provides in relevant part:

A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340....

COUNT II

Kenneth Poloski, as part of his official employment with the Kentucky Transportation Cabinet, Department of Highways, District 1, monitored the workers of his private company (owned by himself, d/b/a McKenney Tree Service) in performance of services to fulfill a portion of the contract between Bergeron Emergency Services and the Kentucky Transportation Cabinet for debris removal in Ballard County, Kentucky.

These facts constitute violations of KRS 11A.040(3).

KRS 11A.040(3) provides:

A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

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